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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,884	03/30/2001	Gcetha Ravishankar	95-461	4452
23164	7590	07/18/2006	[REDACTED]	[REDACTED] EXAMINER
LEON R TURKEVICH 2000 M STREET NW 7TH FLOOR WASHINGTON, DC 200363307			[REDACTED] LESNIEWSKI, VICTOR D	[REDACTED]
			[REDACTED] ART UNIT	[REDACTED] PAPER NUMBER
			2152	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/820,884 Examiner Victor Lesniewski	RAVISHANKAR ET AL. Art Unit 2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 May 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21,23-31 and 34-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-21,23-31 and 34-43 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

1. The amendment filed 5/8/2006 has been placed of record in the file.
2. No claims have been amended.
3. Claims 22, 32, and 33 have been canceled.
4. Claims 41-43 have been added.
5. Claims 1-21, 23-31, and 34-43 are now pending.
6. The applicant's arguments with respect to claims 1-21, 23-31, and 34-43 have been fully considered but they are not persuasive. A detailed discussion is set forth below.

Claim Rejections - 35 USC § 103

7. Claims 1, 11, 12, 18, 19, 29, 30, and 40 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Bates et al. (U.S. Patent Number 6,631,181), hereinafter referred to as Bates, in view of Fuller et al. (U.S. Patent Number 6,545,589), hereinafter referred to as Fuller, further in view of Kruesi et al. (U.S. Patent Number 6,504,915), hereinafter referred to as Kruesi, as presented in the previous action dated 2/6/2006.
8. Claims 2-6, 8, 13-16, 20, 21, 23, 24, 26, 31, 34, 35, and 37 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Bates in view of Fuller in view of Kruesi, further in view of Edmonds et al. (U.S. Patent Number 6,230,190) as presented in the previous action dated 2/6/2006.
9. Claims 7, 25, and 36 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bates, Fuller, Kruesi, and Edmonds in view of Official Notice as presented in the previous action dated 2/6/2006.

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10. Claims 9, 10, 17, 27, 28, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates in view of Fuller in view of Kruesi, further in view of Gebhardt et al. (U.S. Patent Number 6,769,027) as presented in the previous action dated 2/6/2006.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bates, in view of Fuller, further in view of Kruesi.

13. See paragraphs 8-10 of the previous action dated 2/6/2006 for discussion of the combination of Bates, Fuller, and Kruesi.

14. The combination of Bates, Fuller, and Kruesi discloses:

- <Claims 41 and 43>

The method of claim 1, wherein each of the attempting retrieval, determining the inaccessibility of the subscriber announcement, retrieving the audible subscriber identifier, and playing the alternate subscriber announcement are performed by the server (Bates, figure 1, item 40).

- <Claim 42>

The server of claim 12, wherein the subscriber announcement is stored in the messaging server, the messaging application configured for playing the alternate subscriber

announcement based on the determined inaccessibility of the subscriber announcement from within the messaging server (Bates, figure 1, item 10).

Since the combination of Bates, Fuller, and Kruesi discloses all of the above limitations, claims 41-43 are rejected.

Response to Arguments

15. In the remarks, the applicant has argued:

- <Argument 1>

Kruesi does not disclose the features of claim 1 because he does not disclose “determining an inaccessibility of the subscriber announcement” as recited in claim 1.

- <Argument 2>

Bates does not disclose the features of claim 1 because he does not disclose a server attempting access from a separate messaging server.

- <Argument 3>

Bates does not disclose the features of claim 1 because he does not disclose “determining an inaccessibility of the subscriber announcement” as recited in claim 1.

- <Argument 4>

Fuller does not disclose the features of claim 1 because he does not disclose retrieving a default announcement “based on the determined inaccessibility of the subscriber announcement” as recited in claim 1.

16. In response to argument 1, it is maintained that the combination of Bates, Fuller, and Kruesi discloses the determining step as recited in claim 1. Kruesi’s system clearly determines

an inaccessibility of a voice file at a certain node. The subscriber announcement as claimed, and as represented by Bates' greeting, most certainly constitutes a voice file. Thus, one of ordinary skill given the teaching of Kruesi to determine an inaccessibility of a voice file, would be able to determine an inaccessibility of an announcement or greeting (which is a voice file).

17. Although Kruesi states accessing the file at an alternate node, he still meets the claim limitations because the file is inaccessible (a determined inaccessibility) at the first node. The claim states "determining an inaccessibility" and this can reasonably be read in relation to the node. The claim does not require that the file is inaccessible at all nodes. Clearly, Kruesi's system determines an inaccessibility, as when a first node fails, the file is inaccessible at that node.

18. The applicant's specification does not describe "determining an inaccessibility" in any way to render a more narrow interpretation pertinent. In fact, nothing could be found in the specification to support the applicant's interpretation of "an inaccessibility" as presented on page 12 of the remarks. Further, it is apparent from the applicant's own remarks that the interpretation of "determining an inaccessibility" as presented in the preceding paragraph is indeed relevant to the claim language. Again, Kruesi determines an inaccessibility when a first node fails and the applicant states that node failure "is precisely the problem that is addressed by the inventors, namely that a messaging server that is rendered inoperable." See the footnote on page 14 of the remarks.

19. In response to argument 2, it is maintained that the combination of Bates, Fuller, and Kruesi discloses attempting retrieval from a messaging server as recited in claim 1. In Bates' system it is clear that a server or other such network device in the switching system (Bates,

figure 1, item 40) attempts retrieval from a messaging server (Bates, figure 1, item 10). Further it is also noted that Fuller's system utilizes multiple facilities in his telephone control system which all communicate and share information with each other in order to complete the appropriate call processing. See Fuller, figure 2.

20. In response to argument 3, it is maintained that the combination of Bates, Fuller, and Kruesi discloses the determining step as recited in claim 1. It is unclear why the applicant has argued that Bates does not disclose determining an inaccessibility when Kruesi was cited as relating to this limitation and when the combination of Bates, Fuller, and Kruesi clearly discloses determining an inaccessibility of the subscriber announcement. The applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

21. In response to argument 4, it is maintained that the combination of Bates, Fuller, and Kruesi discloses the retrieving step as recited in claim 1. It is unclear why the applicant has argued that Fuller does not disclose retrieving a default announcement based on the determined inaccessibility of the subscriber announcement when Kruesi was cited as relating to determining an inaccessibility and when the combination of Bates, Fuller, and Kruesi clearly discloses the retrieving step as claimed. The applicant is reminded that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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22. In addition, the applicant has argued that claims rejected under 35 U.S.C. 103, but not explicitly discussed, are allowable based on the above arguments. Thus, claims disclosing similar limitations to the discussed claims and related dependent claims remain rejected under the same reasoning as presented above.

Conclusion

23. The applicant's amendment necessitated the new grounds of rejection presented in this office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). The applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

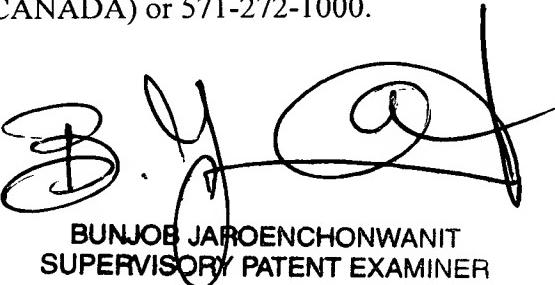
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Lesniewski whose telephone number is 571-272-3987. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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